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RUEATRS/DEPT OF TREASURY WASHINGTON DC
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SIPDIS
WHA FOR DAS REYNOSO
WHA/CAR FOR V.DEPIRRO, W.SMITH, J.MACK-WILSON, M.FORTIN
L/LEI
JUSTICE FOR OIA (P.PETTY, P.MCKENNA)
TREASURY FOR ERIN NEPHEW

E.O. 12958: N/A
TAGS: [CJAN](#) [SNAR](#) [PREL](#) [SOCI](#) [EAID](#) [ASEC](#) [KCRM](#) [KCOR](#) [JM](#) [XL](#)
SUBJECT: JAMAICA: EXTRADITION CASES OF PRESLEY BINGHAM AND
CHRISTOPHER COKE

REF: STATE 1444 (071801Z JAN 10)(NOTAL)
KINGSTON 86 (222037Z JAN 10)(NOTAL)
KINGSTON 114 (291917Z JAN 10)(NOTAL)

Summary

1.(SBU) The Jamaican Attorney General and Solicitor General maintain that the denial of the USG's extradition request for Presley Bingham was an "unusual" case that will not become a precedent. They also agreed to provide a more complete written justification for the denial of the Bingham extradition. With respect to the pending extradition request for reputed narcotics and arms trafficker Christopher "Dudas" Coke, the Solicitor General maintains that the key unresolved question is whether critical information was disclosed to the USG in accordance with Jamaican law. End Summary.

2.(SBU) In a private meeting with the Government of Jamaica (GoJ)'s Minister of Justice and Attorney General (AG) Dorothy Lightbourne and Solicitor General (SG) Douglas Leys on the afternoon of February 3, Charge' reiterated the USG's disappointment with the GoJ's denial of the extradition request for Presley Bingham (reftels) and sought preliminary clarification of the reasons for the GoJ's decision. Prior to the arrival of the AG, the SG indicated to Charge' that his visit to Washington in December had been "productive," and had afforded an opportunity to discuss issues and problems surrounding extraditions; he believed the USG had a "growing appreciation of the issues between us." Charge' asked whether, with respect to the Christopher "Dudus" Coke extradition request, the SG considered the ball to be in the USG's court. The SG replied that follow-up actions by both parties remained; the GoJ had "looked at other cases involving interceptions," and had concluded that the Coke case was one of "first impression." The main issue in the Coke case was "unauthorized disclosure" of information to USG authorities which had not been in accordance with Jamaican law. The SG said he understood, as a result of his visit to Washington, that the USG believed that proper procedures had been followed. Upon his return to Jamaica, he had sent a letter to the Commissioner of Police inquiring as to the authority by which a Jamaican police officer had given testimony to a jury in the U.S.; he had not yet received a reply. The SG noted that he also had sent a draft joint press release to the U.S. Department of Justice, and was awaiting a reply.

3.(SBU) When AG Lightbourne joined the meeting, Charge' expressed disappointment with the GoJ's surprising denial of the Bingham extradition request, noting that this was the first instance in which the Jamaican courts had ordered an extradition, but in which the surrender order subsequently had not been followed. Charge' said that the USG was interested in the details underlying the GoJ's decision, and noted that, in keeping with the customary close collaboration between the GoJ and USG on extradition matters, ordinarily any problems would have been resolved before the arrest order had been signed. Charge' emphasized that, in the initial extradition request, the 60-day limitation had not expired because of any delay on the part of the USG, but rather because of the GoJ's inaction; SG Leys readily acknowledged this point. Charge' noted that Bingham initially had chosen not to appeal his extradition, and had not raised the arguments put forward by the AG. Charge' noted that the AG had taken 59 days to issue a decision regarding the appeal, thus necessitating the USG's having to bring in a chartered aircraft to ensure that Bingham could have been removed from Jamaica before the expiration of the 60-day limitation. AG Lightbourne said that she had been awaiting a brief by Bingham's lawyer, who had been off-island; a Cabinet meeting and the press of other business had resulted in issuance of her decision on the 59th day.

4.(SBU) In response to Charge's inquiry regarding the AG's finding that the Bingham extradition request had been "unjust and oppressive," Leys said that the GoJ would make a detailed written

explanation available to the USG. Leys noted that, while it had not been included in the written ruling, in dismissing the initial extradition request the judge had pronounced that the GoJ should "not think about" re-arresting Bingham for the same offense. Leys noted that the Bingham case dated back to 1998, and had taken so long to be resolved through "no fault of the applicant." Leys readily acknowledged that, in processing the initial extradition request, the Jamaican authorities had been remiss in allowing the 60-day limitation to expire, and said the 17-month delay in the second extradition request had been excessive. In light of these delays, it was necessary to "balance the rights of the accused with the interests of the requesting and the requested states." The SG observed that, whenever a defendant is re-arrested after a long period, "memories fade, documents go missing, and witnesses relocate." Charge' then asked why, when the AG had signed the renewed authorization to proceed in 2008, these factors had not been taken into consideration. AG Lightbourne replied that, when she had signed the authorization, she had not realized that it was a renewal of a previous extradition request; she only realized this when, subsequently, Bingham's lawyer brought it to her attention.

5.(SBU) Charge' then pointed out that often extradition cases took many months or years to develop, and asked whether the AG's decision in the Bingham case might serve as an unfortunate precedent. SG Leys replied that the Bingham case had been "peculiar," in that the court had discharged the case, and the USG then had submitted a renewed extradition request for the same offense. Again, Leys readily acknowledged that the initial extradition request had been discharged "because of negligence" by GoJ authorities. AG Lightbourne noted that Section 11 (3) (b) of the Extradition Treaty "would not make sense" if renewed extradition requests could be submitted for the same offense. SG Leys then said that delay was "one of the factors" the Minister had taken into consideration in "exercising her discretion" under Section 12 (3) of the Extradition Treaty. In response to Charge's inquiry as to whether these factors had been taken into consideration at the level of the magisterial court, the SG and AG replied that they could not say, as they had not been present. SG Leys noted that the "unjust and oppressive" provision of the Treaty previously had applied in the Walter Byles extradition case. Charge' reiterated that, if the GoJ found problems or weaknesses in the course of extradition cases, they should be brought to the attention of the USG and resolved rather than waiting until the end

of the process.

6.(SBU) Charge' then asked whether the USG should submit renewed extradition requests in the future. SG Leys replied that "it's up to you," and noted that the Jamaican courts ordinarily adhered to a "fresh evidence" rule when accepting renewed cases. Charge' reiterated that, in the initial extradition request, the court had not exonerated Bingham; instead, the case had been lost in the Jamaican system. The USG considered this a crucial distinction. SG Leys said he appreciated this distinction, but that it had been necessary to "balance the rights of the accused with the rights of the requesting and requested states." In response to Charge's inquiry as to whether the Bingham case might serve as a precedent, Leys replied "no, never," and Lightbourne called it "a most unusual case."

7.(SBU) SG Leys then said, in reference to the Coke extradition case, the key question was how information had been given to USG authorities without "modifications to the order to disclose information only to certain classes of persons." Leys said he did not even know the name of the constable who had testified in the U.S.; the circumstances were under investigation. He then noted that the question of whether the Minister of National Security should have been consulted was "no longer an issue." The outstanding issue was whether information had been disclosed to the USG in accordance with Jamaican law.

8.(SBU) AG Lightbourne then emphasized that she was "fully

supportive of the U.S. Government," and reiterated that the Bingham case was "unusual." Leys said that, in the previous (People's National Party) administration, the Minister of Justice routinely had signed extradition arrest orders and forwarded them to the Director of Public Prosecutions (DPP) without careful review. Since the DPP represented the interests of the USG, from now on the SG would review extradition requests before the arrest orders were sent to the DPP. Charge' reiterated that the USG did not submit frivolous extradition requests; these requests were only submitted for serious crimes. Charge' noted that it was extremely frustrating to the USG that an extradition case on which the two governments had collaborated closely should be denied at the last minute; any possible steps to avoid a repeat of this episode should be taken. Leys then maintained that the AG could have denied the Coke extradition request when the USG had not supplied all of the information requested by the GoJ; instead, the GoJ was working with the USG in hopes of resolving outstanding questions, and this should be understood as a sign of good relations. Leys noted that he had found only one other extradition case involving intercepts; he believed it was that of Garth Lewis, and that no ruling had been rendered. AG Lightbourne then cited a case in which a Jamaican mistakenly had been extradited to Maryland on a charge of first degree murder rather than second degree murder; the public defender now was attempting to have the case dismissed. She said this illustrated the need for careful review by the SL of all extradition cases. Charge' concluded by noting the prominent coverage given to the Coke and Bingham extradition cases by the Jamaican print and broadcast media; this made coordination between the GoJ and USG all the more essential.
Parnell